THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 28th day of March,2007

W.P.No.9136 of 1998

Between:-

P. Ramakrishna & others … Petitioners

and

The Nandyal Co-op. Sugars
Ltd., rep. by its Managing Director,
Nandyal, Krunool district bad
and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the action of the respondents in not paying salaries to the petitioners as arbitrary, illegal and violative of principles of natural justice and further to direct the respondents to pay salaries to the petitioners from January,1997 onwards.

The only contention of the petitioners is that though they have been working as Mazdoors on NMR basis in the 1st respondent-sugar factory, they are not being paid salaries from January,1997 onwards.

A detailed counter affidavit has been filed on behalf of the 1st respondent denying the allegations made by the petitioner. It is asserted that the petitioners are not working continuously since January,1997. Respondent-sugar mill stopped all its activities since 1996-97 crushing season and there is no work to any of the employees - either to regular or NMR employees. Due to financial crisis and lack of funds, the respondent-sugar mill is not able to pay the salaries/wages to its employees. However, the employees were paid recoverable advances from the funds received from the Government. Petitioners were also paid the said advance amount amounting to Rs.3,500/- each during the month of March,1998. Petitioners have suppressed these facts and contended that they were not paid any single paise from the funds received from the Government. Petitioners earlier failed to get any direction for regularization of their services and having failed in their attempts, they filed the present Writ Petition

claiming salaries from a factory, which is not functioning. Not only to the petitioners, but also to the other employees the salaries were not paid since January,1997.

On behalf of the 2nd respondent also, a separate counter is filed denying the allegations made by the petitioners and stating that the petitioners are not entitled for any salaries or wages, as they are not performing any nature of work from January,1997 as the factory has been laid off for want of sugarcane. The claim of the petitioners for payment of salaries is not justifiable. Nandyal Cooperative Sugar Factory is a sick unit, categorized under 'C' category by High Level Committee appointed by the Government on reconstruction of Public Enterprises and cooperative units. Government has issued instructions to liquidate the units under 'C' category including Nandyal Cooperative Sugar Factory. As per the instructions of the Government, State Bank of India Capital Markets Limited has been entrusted with the work relating to privatization of Nandyal sugar factory. The process is under progress. As the Nandyal Cooperative sugar factory is finding it difficult to meet the day to day needs and statutory expenses in connection with the privatization, the Government has released a recoverable loan of Rs.25.00 lakhs to tide over the present liquidity crunch faced by the sugar factory. The Management of Nandyal Cooperative Sugar Factory has paid a portion of this loan to the permanent employees as recoverable advance. Thus, the contention of the petitioners that release of Rs.25.00 lakhs towards salaries is not correct. Petitioners are NMRs and they are not performing any duties as the factory was under lay-off from January,1997 onwards and as such, the petitioners are not eligible for any wages.

In view of the averments made in the counter affidavits, which are not contraverted, the petitioners are not entitled for any relief as sought

for in the Writ Petition. However, this will not preclude the petitioners from approaching the appropriate authority and work out their remedies as available law.

Subject to the above observation, the Writ Petition is dismissed. No order as to costs.

28-3-2007

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